

REMARKS

In an Office Action mailed on February 3, 2009, objections were made to claims 51 and 52; claims 39, 41-43, 45-47, 49 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Claus, England and Duda; and claims 40, 44 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Claus and England and further in view of Lee.

Claims 51 and 52 have been amended so that the claims depend from claim 39 and overcome the corresponding objections.

To make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as the U.S. Supreme Court held, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

Applicant respectfully requests reconsideration of the § 103 rejection of independent claim 39 for at least the reason that the Office Action fails to provide a plausible reason why one of skill in the art in possession of Claus, England and Duda would have derived limitations of claim 39. More specifically, the Examiner apparently relies on Duda for the purported teaching of handling an unsolicited request and reasons that this security feature could be advantageously incorporated into Claus' system. However, Duda's system is directed to preventing someone from using multiple unsolicited authentication messages for purposes of decoding keys that are stored in a cellular telephone base station and would serve no purposes in Claus' smart card. More specifically, Duda describes tracking unexpected authentication messages in a network base station. Duda explains that by sending unexpected authentication messages, a user may, upon receipt of a number of messages, be able to decode an authentication key. By tracking the number of unexpected authentication messages, Duda purportedly adds a layer of security, as explained in Duda, 4:33-65 in column 4, in that new keys are installed after a predetermined number of unexpected messages are received at the base station.

However, one of skill in the art in possession of Claus, England and Duda would not have combined Duda with England and Claus to derive the claimed invention. More specifically, as Duda's security scheme is directed at preventing users from accessing keys that are stored in its

network base station, one of skill in the art may have hypothetically applied Duda's security scheme to Claus' host system. However, the host system does not constitute the second computer system of claim 39. As such, even assuming, for purposes of argument, that Duda may be hypothetically combined with Claus and England, one of skill in the art would still not have derived the claimed invention. It is noted that no reason exists to add Duda's system to Claus' smart card, in that the user of the smart card due to its very nature controls when the ID (at one in Fig. 1) is transmitted and therefore, controls when a challenge number is received. There is no reason why the smart card would expect multiple unsolicited challenge numbers in that the smart card executes a predetermined algorithm of first transmitting the ID and then receiving a challenge number. Unexpected challenge numbers, however, would not be processed. Thus, there are no additional advantages that may be achieved in incorporating Duda's security algorithm into Claus' smart card. As such, there has been no plausible explanation given why one of skill in the art in possession of Claus, England and Duda would have combined these references to derive the claimed invention. Therefore, Applicant respectfully requests withdrawal of the § 103 rejection of claim 39.

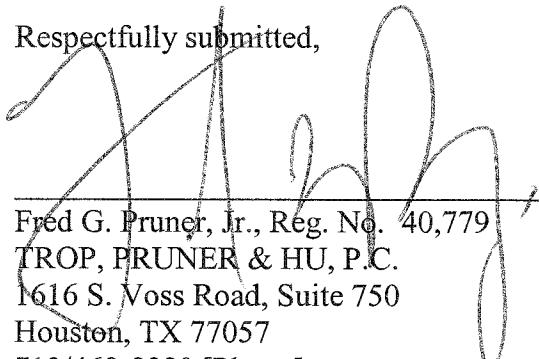
For similar reasons, Applicant respectfully submits that independent claims 43 and 47 overcome the § 103 rejections. In this regard, without modifying the smart card of Claus' system with Duda's security scheme, one of skill in the art would not have derived instructions to cause a processor-based system to receive an unsolicited request for a second computer system to provide an identification of the second computer system (claim 43); and likewise, one of skill in the art would not have derived the first computer of claim 47.

Dependent claims 40-42, 44-46 and 48-52 are patentable for at least the same reasons as the claims from which they depend.

CONCLUSION

In view of the foregoing, Applicant requests withdrawal of the § 103 rejections and a favorable action in the form a Notice of Allowance. The Commissioner is authorized to pay any additional fees or credit any overpayment to Deposit Account No. 20-1504 (ITL.0160US).

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Respectfully submitted,

Fred G. Pruner, Jr., Reg. No. 40,779
TROP, PRUNER & HU, P.C.
1616 S. Voss Road, Suite 750
Houston, TX 77057
713/468-8880 [Phone]
713/468-8883 [Fax]

Attorney for Intel Corporation